

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

UNITED STATES OF AMERICA,

Criminal No. 04-29 (JRT)

Plaintiff,

v.

MOHAMED ABDULLAH WARSAME,

Defendant.

**PROTECTIVE ORDER PURSUANT
TO SECTION 4 OF THE CLASSIFIED
INFORMATION PROCEDURES ACT
AND RULE 16 OF THE FEDERAL
RULES OF CRIMINAL PROCEDURE**

Thomas M. Hollenhorst and William H. Koch, Assistant United States Attorneys, **OFFICE OF THE UNITED STATES ATTORNEY**, 600 United States Courthouse, 300 South Fourth Street, Minneapolis, MN 55415; Joseph N. Kaster, **UNITED STATES DEPARTMENT OF JUSTICE**, 10th and Constitution Avenue NW, Room 2649, Washington DC, 20530; for plaintiff.

David C. Thomas, **LAW OFFICES OF DAVID C. THOMAS**, 53 West Jackson Boulevard, Suite 1362, Chicago, IL 60604; Andrea K. George, Assistant Federal Defender **OFFICE OF THE FEDERAL DEFENDER**, 300 South Fourth Street, Suite 107, Minneapolis, MN 55415; for defendant.

This matter comes before the Court on the United States' *ex parte, in camera* motion and supporting declaration (hereinafter, the "Submission"), filed October 6, 2006, pursuant to Section 4 of the Classified Information Procedures Act ("CIPA"), 18 U.S.C. App. 111 § 4, and Rule 16 of the Federal Rules of Criminal Procedure ("Fed. R. Crim. P.") for a protective order authorizing the disclosure of certain unclassified summaries in lieu of disclosure of classified materials (the "Classified Documents") themselves, and to withhold disclosure of the classified documents. After *ex parte, in camera* inspection and

consideration of the United States' Submission, this Court finds, pursuant to Section 4 of CIPA and Fed. R. Crim. P. 16(d)(1):

The United States' Submission contains classified information that requires protection against unauthorized disclosure for reasons of national security. Specifically, the Court finds that disclosure of the classified information or the Classified Documents to the defense, or to the public, reasonably could be expected to cause serious damage to national security.

The Court further finds that the information sought to be protected is either not discoverable under *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny, and Fed. R. Crim. P. 16, or that such discovery value is outweighed by the potential danger to national security that might ensue after disclosure. Accordingly,

IT IS HEREBY ORDERED that the United States need not disclose to the defense the specific classified information or Classified Documents described in the United States' Submission.

Pursuant to CIPA Section 4 and Fed. R. Crim. P. 16(d)(1), the United States has proposed unclassified summaries as substitutes for certain specific classified information at issue. The Court finds that the unclassified summaries will provide the defendant with substantially the same ability to make his defense as would disclosure of the specific classified information or Classified Documents.

IT IS FURTHER ORDERED that the United States may disclose to the defense the unclassified summaries substantially in the form proposed in the Submission.

IT IS FURTHER ORDERED that the United States' unclassified summaries of the specific information at issue are hereby substituted for the classified information and Classified Documents.

IT IS FURTHER ORDERED that the United States need not disclose to the defense reports cited in or incorporated in, or reports derivative of, the Classified Documents.

IT IS FURTHER ORDERED that the United States' Submission is hereby sealed and shall be maintained in a facility appropriate for the storage of such classified information in accordance with established security procedures, until further order of this Court.

DATED: April 20, 2007
at Minneapolis, Minnesota.

s/ John R. Tunheim
JOHN R. TUNHEIM
United States District Judge